

TEXT OF FINAL REGULATIONS

Current wording is indicated by regular type.
Proposed deletions are indicated by ~~strikeout~~.
Proposed additions are indicated by underline.

TITLE 3. CALIFORNIA CODE OF REGULATIONS DIVISION 6. PESTICIDES AND PEST CONTROL OPERATIONS CHAPTER 2. PESTICIDES SUBCHAPTER 4. RESTRICTED MATERIALS ARTICLE 4. USE REQUIREMENTS

Amend section 6450.2 to read:

6450.2. Methyl Bromide Field Fumigation Buffer Zone Requirements.

- (a) The commissioner shall approve buffer zone sizes and durations based upon local conditions.
- (b) The operator of the property to be treated shall assure that all buffer zone distances are measured from the perimeter of the application block.
- (c) The buffer zone restrictions shall begin at the start of fumigation. The buffer zone restrictions shall remain in effect for at least 36 hours after the completion of the injection to the application block.
- (d) Two buffer zones, an inner and outer for each application block, shall be approved by the commissioner after the proposed worksite plan is submitted.
- (e) Inner Buffer Zone Restrictions.
 - (1) The inner buffer zone shall be at least 50 feet ~~and shall not extend into adjoining property except as provided in (3) below.~~
 - (2) The operator of the property to be treated shall assure that no persons are allowed within the inner buffer zone except to transit and perform fumigation handling activities.
 - (3) The inner buffer zone shall not extend into adjoining property except as provided below:
 - ~~(3)~~ (A) The inner buffer zone may extend into adjoining agricultural property if the adjoining property operator gives written permission and allows the operator of the property to be treated to post the inner buffer zone boundary on the adjoining property with signs. If such written permission is given, the operator of the property to be treated shall assure that:
 - ~~(A)~~ 1. the inner buffer zone boundaries on the adjoining property are posted with signs while the buffer zone is in effect; and
 - ~~(B)~~ 2. the signs are posted so that the wording is clearly visible, to persons with normal vision, from a distance of 25 feet and shall contain the following words: "METHYL BROMIDE INNER BUFFER ZONE" and "KEEP OUT" and "NO ENTRE"; and
 - ~~(C)~~ 3. the signs are posted at intervals not exceeding 200 feet.

(B) With approval from the commissioner, the inner buffer zone may extend across sites only where transit activities may occur, including streets, roads, roads within agricultural property, highways, and other similar means of travel. Written permission and posting requirements in 6450.2(e)(3)(A) shall not apply.

(f) Outer Buffer Zone Restrictions.

(1) The outer buffer zone shall be at least 60 feet.

(2) The operator of the property to be treated shall assure that no persons are allowed within the outer buffer zone except to transit, perform fumigation handling activities, and commissioner-approved activities as identified in the restricted materials permit conditions. In no instance shall persons be allowed within the outer buffer zone for more than 12 hours in a 24-hour period.

(3) The outer buffer zone may extend into other properties with permission from the operators of these other properties. In no instances shall the outer buffer zone contain occupied residences or occupied onsite employee housing while the outer buffer zone is in effect. The outer buffer zone shall not extend into properties that contain schools, convalescent homes, hospitals, or other similar sites identified by the commissioner.

(4) The outer buffer zone may extend across roads, highways, or similar means of travel or sites approved by the commissioner.

(g) The operator of the other properties specified in (e)(3)(A) and (f)(3) above, shall notify the following persons that a buffer zone(s) has been established on the property: onsite employees, including those of a licensed pest control business or farm labor contractor. The notice to employees shall be given prior to the commencement of the employee's work activity.

Notification to farm labor contractor employees may be done by giving written notice to the farm labor contractor who shall then give the notice to the employee. Employee notification shall include information required in section 6450.1(b)(2).

(h) If the operator of the other property is required to notify his/her employees as specified in (g), then the operator of the property to be treated shall assure that specific notification of the date and time of the start of the fumigation and anticipated expiration of buffer zones is provided to the other property operator. This specific fumigation notification shall be provided to the other property operator at least 48 hours prior to starting the fumigation. If the fumigation of an application block does not commence within the time frame specified in (a)(2), then a new notification must be provided to the other property operator specified in (e)(3)(A) and (f)(3), but the 48-hour requirement shall not apply unless required by the commissioner.

(i) When a school property is within 300 feet of the perimeter of the outer buffer zone, the injection shall be completed 36 hours prior to the start of a school session. School session shall be those times when students are attending scheduled classes.

NOTE: Authority cited: Sections 11456, 12976, 12981, 14005 and 14102, Food and Agricultural Code. Reference: Sections 11501, 12981, 14006 and 14102, Food and Agricultural Code.

Amend section 6450.3(a)(1)(C)2 to read:

6450.3. Methyl Bromide Field Fumigation Methods.

(a) The fumigation shall be made only in accordance with the following restrictions, except for experimental research purposes pursuant to a valid research authorization issued according to section 6260.

(1) Nontarpaulin/Shallow/Bed

(A) Application rate shall not exceed 200 pounds of methyl bromide per acre.

(B) The application tractor shall be equipped with an air fan dilution system.

(C) Rearward-curved (swept-back) chisels shall be used with:

1. closing shoes and bed-shaper, or closing shoes and compaction roller; and

2. chisel injection points positioned beneath and ~~behind~~ ahead of the closing shoes.

(D) Injection depth shall be between 10 and 15 inches. The injection depth to preformed beds must not be below the bed furrow.

(E) Injection spacing shall be 40 inches or less.

(F) The soil shall not be disturbed for at least 3 days (72 hours) following completion of injection to the application block.

(G) The application block restricted entry interval shall be 3 days.

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NOTE: Authority cited: Sections 11456, 12976, 12981, 14005 and 14102, Food and Agricultural Code. Reference: Sections 11501, 12981, 14006 and 14102, Food and Agricultural Code.

CHAPTER 3. PEST CONTROL OPERATIONS
SUBCHAPTER 3. PESTICIDE WORKER SAFETY
ARTICLE 4. FUMIGATION

Amend section 6784 to read:

6784. Field Fumigation.

(a) Signs shall be posted in accordance with section 6776(f) and shall remain in place until aeration is complete.

(b) The provisions of this subsection pertain to field soil fumigations using methyl bromide, singly or in combination with chloropicrin or any other pesticide or warning agent, applied pursuant to the fumigation methods described in section 6450.3.

(1) For purposes of this subsection, fumigation handling activities includes an employee involved in assisting with covering the tarpaulin at the end of the rows (shoveling); observing the overall operation, checking tarpaulin placement, changing cylinders (copiloting); operating application equipment (driving); and tarpaulin cutting and removal.

(2) Employer Recordkeeping. The employer shall maintain records for all employees involved in application, tarpaulin cutting, tarpaulin repair, and tarpaulin removal activities. The records shall identify the person, work activity(ies), date(s), duration of handling, the

U.S. Environmental Protection Agency Registration Number, and the brand name of the methyl bromide product handled. The employer shall maintain these use records at a central location for two years and the records shall be made available to the commissioner upon request.

(3) Employee Protection Requirements for Fumigation Handlers.

(A) Employees involved primarily in shoveling shall work only at the ends of the application rows.

(B) Whenever methyl bromide, singly or in combination with chloropicrin or any other pesticide or warning agent, is used for field soil fumigation, at least two trained employees shall be present during introduction of the fumigant and removal of tarpaulins, if used.

(4) Limited Work Hours.

(A) Multiple Task Employees. An employee may work in more than one work task and/or application method in a 24-hour period as long as the employee's total work hours do not exceed the lowest total hours specified in ~~the chart below~~ Table 1 - Maximum Work Hours for any one work task or application method performed, except as provided in section 6784(b)(7).

(B) Fumigation Handling Activities. No employee may work in fumigation handling activities more than the hours specified in ~~the chart below~~ Table 1 - Maximum Work Hours, in a 24-hour period, during the injection period and during the restricted entry interval, except as provided in section 6784(b)(7).

Table 1. Maximum Work Hours

Fumigation Method/Activities	Maximum Application Rate	Maximum Work Hours in a 24-Hour Period
Nontarpaulin/Shallow/Bed Application Equipment Driving	200 lbs.	4*
Nontarpaulin/Deep/Broadcast Application Equipment Driving	400 lbs.	4*
Tarpaulin/Shallow/Broadcast Application Equipment Driving Shoveling, Copiloting Tarpaulin Cutting Tarpaulin Removal	400 lbs.	4* 3* 4 7
Tarpaulin/Shallow/Bed Application Equipment Driving Shoveling, Copiloting Tarpaulin Cutting Tarpaulin Removal	250 lbs.	4* 4* 4 7

Tarpaulin/Deep/Broadcast Application Equipment Driving Shoveling, Copiloting Tarpaulin Cutting Tarpaulin Removal	400 lbs.	4* 3* 4 7
Drip System – Hot Gas Applicators Tarpaulin Cutting Tarpaulin Removal	225 lbs.	2* 4 7

*If the actual methyl bromide application rate is less than the maximum application rate shown in the ~~chart~~ table above for the particular fumigation method used, the maximum work hours may be increased in accordance with the following formula:

$$\left(\frac{\text{maximum application rate for method}}{\text{actual application rate}} \right) \times \begin{matrix} \text{maximum} \\ \text{work hours in a} \\ \text{24-hour period} \end{matrix} = \begin{matrix} \text{revised maximum} \\ \text{work hours in a} \\ \text{24-hour period} \end{matrix}$$

(5) Tarpaulin Cutting and Removal Procedures

(A) Tarpaulin cutting and tarpaulin removal shall be discontinued if the presence of gas is readily evident (onset of eye irritation or odor).

(B) Tarpaulins used for broadcast fumigations shall be cut using only mechanical methods (all-terrain vehicle or a tractor with a cutting wheel). Each tarpaulin panel used for broadcast fumigations shall be cut lengthwise.

(6) Tarpaulin Repair.

(A) The operator of the property shall assure that a "tarpaulin repair response plan" is provided to the commissioner. The tarpaulin repair response plan shall identify the responsibilities of the licensed pest control business and/or the permittee with regard to tarpaulin damage detection and repair activities. At a minimum, the tarpaulin repair response plan shall indicate the parties responsible for the repair and incorporate the applicable elements listed in (B) below.

(B) The "tarpaulin repair response plan" approved by the commissioner in the worksite plan must state with specificity the situations when tarpaulin repair must be conducted. The situations should be based on, but not limited to, hazard to the public, residents or workers; proximity to occupied structures, size of the damaged area(s); timing of damage; feasibility of repair; and environmental factors such as wind speed and direction.

(C) The ambient air in the damaged areas of the tarpaulin to be repaired must be tested for methyl bromide concentration by a certified applicator of the licensed pest control business that made the application, or by a certified applicator employee of the permittee, or certified applicator permittee, using a testing device as specified by the labeling. The certified applicator must wear ~~respiratory protective equipment~~ self-contained breathing apparatus (SCBA) when conducting these tests.

(D) All repair work areas must test less than 5 parts per million methyl bromide before any employee without respiratory protection shall be allowed to enter and conduct tarpaulin repair.

Such employee is limited to one (1) work hour in a 24-hour period, except as provided in section 6784(b)(7).

(7) Maximum Work Hour Exemption.

Notwithstanding sections 6784(b)(4) and 6784(b)(6)(D), maximum fumigation handlers work hour restrictions shall not apply if:

(A) fumigation handlers wear National Institute for Occupational Safety and Health (NIOSH) certified respiratory protection specifically recommended by the manufacturer for use in atmospheres containing less than 5 parts per million methyl bromide; and

(B) the NIOSH certified respiratory protection is worn for the entire duration of the fumigation handling activities.

NOTE: Authority cited: Sections 11456 and 12981, Food and Agricultural Code.

Reference: Section 12981, Food and Agricultural Code.